

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

BRIAN OLIVER,	:	Civil No. 1:22-CV-01436
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
MIKE ARDITO, <i>et al.</i> ,	:	
	:	
Defendants.	:	Judge Jennifer P. Wilson

**ORDER**

**AND NOW**, on this 28th day of November 2023, for the reasons set forth in the accompanying memorandum, **IT IS ORDERED THAT:**

1. Defendant Trinity's motion to dismiss the amended complaint pursuant to Fed. R. Civ. P. Rule 12(b)(6), Doc. 30, is **GRANTED**.
2. All claims raised against Defendant Trinity are **DIMISSED** without prejudice pursuant to Fed. R. Civ. P. Rule 12(b)(6).
3. All claims raised against Defendant Ardito are **DIMISSED** without prejudice pursuant to Fed. R. Civ. P. Rule 4(m).
4. The amended complaint, Doc. 28, is **DIMISSED** without prejudice.
5. **By no later than December 29, 2023**, Plaintiff may file a second amended complaint.<sup>1</sup> Failure to timely file a second amended

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<sup>1</sup> If Plaintiff does not wish to amend the complaint, he may file a notice stating that he intends to stand on the complaint. If Plaintiff files such notice, the court will enter a final order dismissing the complaint so that an appeal may be filed. *See Weber v. McGrogan*, 939 F.3d 232, 241 (3d Cir. 2019).

complaint will result in the amended complaint being dismissed with prejudice and the case will be closed.

6. The second amended complaint shall bear the same case number presently assigned to this action, shall be labelled as the “Second Amended Complaint,” and shall be direct, concise, and shall stand alone without any reference to any document filed in this matter pursuant to Fed. R. Civ. P. 8(d).
7. The Clerk of Court shall forward to Plaintiff two (2) copies of this Court’s prison civil-rights complaint form which Plaintiff shall use in preparing his second amended complaint.

s/Jennifer P. Wilson  
JENNIFER P. WILSON  
United States District Judge  
Middle District of Pennsylvania